Wyoming Independent Producers Association
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RECEIVED

May 26, 1997

Minerals Management Service
Royalty Management Program
Rules and Publications Staff
P.O. Box 25165, MS 3101
Denver, CO 80225-0165

Re: Notice of Proposed Rulemaking, 62 Fed. Reg. 3742 (January 24, 1997)
Comments on the proposed rules.

Gentlemen:

The Wyoming Independent Producers Association comprises approximately 100 producers and/or related oil field service entities. None of our members produce a sufficient volume of crude oil to impact the local crude oil market. Historically, our members, at best, have been able to negotiate a bonus by playing one crude oil purchaser against another for specific quantities of crude from a particular field.

What is the motive to implement the proposed rules? Has a study been made to determine royalty interests are being paid less than fair market value, and, if so, how much less, and by whom? If the rules are implemented how will they correct the problem? Would the rules be a cost effective method of correcting the problem? How much additional "net" revenue will be realized by the change? Is there a better way to correct the problem such as, for example, to simply audit the suspected affiliated companies and establish a non-arms length arrangement and correct the problem without **A NEW MMS REGULATORY AGENCY** to establish, monitor and regulate a **phantom price**? Before rules are implemented that revert our current system to a new **Federal Regulatory Agency**, consideration should be given as to whether the new system is economically viable.

We have seen Federal price controls on almost everything such as, for example, gold, gasoline, rent, freight rates, cotton, tobacco, wheat, airline fares, natural gas, etc. The Federal Government eliminated these controls and, for at least the past decade, has been deregulating such things as airlines, interstate carriers, interstate commerce, interstate pipelines, natural gas pricing, etc. It is Federal Policy to accomplish deregulation wherever possible and to simplify reporting and bureaucratic burden on citizens, as well as companies employing the citizens. This proposed rule change is a blatant attempt by the Mineral Management Service to implement a **CRUDE OIL REGULATORY AGENCY** which, in all probability, will require several hundred new Federal workers to create a new **phantom price** structure.

The rules, if implemented, would put producers in an untenable position if they produce the same quality crude on Federal minerals, State Land minerals and fee minerals. Could they *pay royalties on the MMS "phantom" price for Federal production and actual sales price on State* and fee minerals? It is obvious this would lead to endless litigation. How could the same crude be worth different prices when it is coming out of the same reservoir? How would the producer determine value for taxes such as ad valorem and severance tax? Would the tax value be the "phantom" price or the actual price received by the producer. The true intent, and net effect, of this proposed rule change is to give MMS the power to regulate crude oil prices for the entire industry -- not just Federal minerals. This format follows the government price support system currently used for wheat producers. The Federal price support system for wheat producers has been a disaster (regarding free enterprise) since its inception. Federal bureaucrats need not extend a similar disaster to crude oil marketing and destroy a free market that has been operating satisfactorily for nearly 100 years.

The proposed rules are flawed in that they make no provision for a reversal wherein the "phantom price" becomes less than the actual sales price. If a regional shortage occurs and the actual price exceeds the MMS "phantom" price would the producer then be subject to the actual price or would the producer continue paying on the basis of the MMS "phantom" price?

The proposed rules are flawed in that there is no provision for **limitation of action.** The MMS could simply find an integrated company had never posted "a fair market price" and therefore it owes additional royalties, interest, and penalties since year one.

The rules, if implemented, will require multiple reporting of actual and "phantom prices", thus, complicating reports, computer programs, and will require industry hiring additional clerical personnel. States with a large share of Federal minerals such as Wyoming (40+%) will be at a competitive disadvantage compared to states with little to no Federal minerals such as Texas. *Industry will invest money in developing minerals that are not subject to burdensome Federal* bureaucracies. Texas will win and Wyoming will lose.

If it is easy for the Federal government to determine a "phantom price" that is more accurate than actual sales value, then the Federal government needs to follow up by putting its money where its mouth is. Let the MMS determine the fair market value and allow any and all producers the option of consigning all or any part of the leasehold volume to the MMS marketers for this higher value. The MMS would only need a few crude oil purchasing agents and not an army of clerks and auditors that will be hired if the proposed rules are implemented.

Another simple alternative to the proposed rule is to allow the Federal government to take in kind any time they feel the lessee is not paying based on a high enough value. This TIK authority currently exists in most leases and would require far less people to administer and would not complicate industry's accounting, computer, or personnel requirements. Industry could handle this procedure in a normal routine manner.

In summation, we wish to refer to the Independent Petroleum Association of America's comments on the proposed rules. These comments represent an in depth study of the problems associated with implementation of the rules. Wyoming Independent Producers wish to make of record its agreement with the IPAA position. WIPA supports the IPAA recommendation that Federal government take its royalty in kind.

The plan to implement the rules appears to be **an exercise in empire building** and, if implemented, would most certainly be **an extreme burden** on the small independent oil company.

Sincerely,

John W Butcher

John W. Butcher